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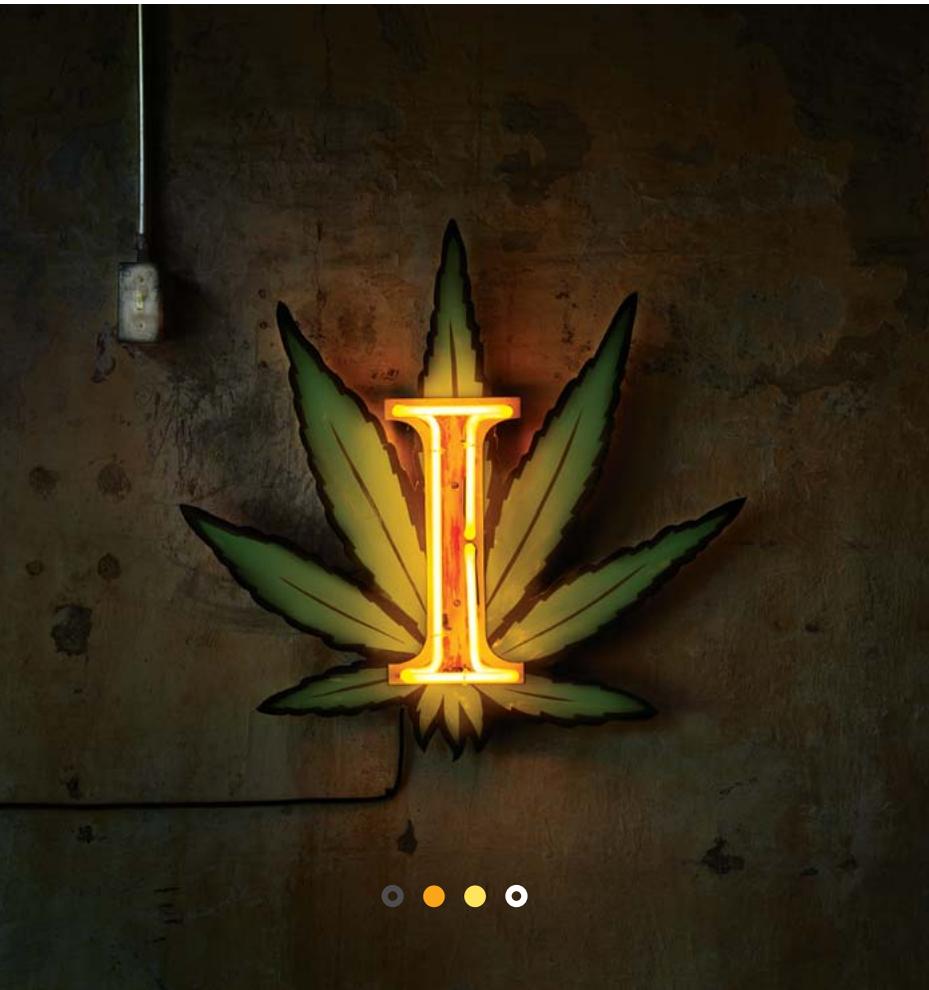
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Guadalupe Peak (left) and El Capitan (center), in the Guadalupe Mountains, are the highest and seventh-highest points in Texas.



**TEXAS HIGH WAYS**  
WHY THE UNLIKELYEST OF STATES—OURS—  
SHOULD LEGALIZE MARIJUANA.



**IN THE EARLY YEARS OF THE TWENTIETH CENTURY,** as they poured across the border into Texas, Mexican immigrants brought with them a familiar and cheap intoxicant: cannabis, which they called *marihuana* (in those days, it was spelled with an *h* instead of a *j*). Perhaps because they were young, predominantly male, and away from home—strong correlates of troublesome behavior—they were seen as lacking appropriate inhibition, especially when they came to town on weekends. Cerveza may have been more culpable, but cannabis made an easier target. In 1914, after a melee allegedly involving a marijuana smoker, the El Paso city government passed what is believed to have been the first law banning a drug that had been legally and widely used for at least five thousand years. Other cities and states quickly followed suit. Before long, marijuana was forbidden everywhere, and its use was often harshly punished.

It's ironic, then, that nearly a century after it fired the first shot in the war on weed, the Sun City has been flirting with a cease-fire. In January, besieged by drug wars in Mexico that killed more than 5,600 people in 2008, almost a third in neighboring Ciudad Juárez alone, the El Paso City Council unanimously approved city representative Beto O'Rourke's motion that the federal government hold an open and honest debate about legalizing all narcotics in the United States. Mayor John Cook vetoed that recommendation. "We would be the laughingstock of the country for having something like this on the books," he said.

The incident drew national attention and some criticism, but it sparked the kind of serious conversation O'Rourke was seeking. "No one is laughing about it," he says. "It's not funny that sixteen hundred people died in our sister city in the course of one year in the most brutal fashion imaginable. We've had waves of violence before, but it took events of this magnitude to convince everyone that something is deeply wrong here, that we are part of the problem and we can do something to fix it. It's the demand that's fueling this war. If our drug laws were different, I will absolutely guarantee you that our body count would be different."

O'Rourke's is no solitary voice crying in the wilderness, nor is the problem limited to Texas. Noting that "the violence that we see in Mexico is fueled sixty-five to seventy percent by the trade in one drug, marijuana," Arizona attorney general Terry Goddard has called for "at least a rational discussion as to what our country can do to take the profit out of that." In February, a blue-ribbon Latin American Commission on Drugs and Democracy, led by former presidents of Mexico, Colombia, and Brazil, called on the U.S. to change the prohibitionist policies that drive the prices of drugs to obscene levels, enable drug cartels to amass enormous wealth, and threaten the stability of several Latin American countries, including Mexico. What is needed, the commission said, is not tightening or tinkering with a failed war on drugs but a questioning of long-held assumptions and a willingness to change. More recently, U.S.

senator Jim Webb, of Virginia, who was Ronald Reagan's Secretary of the Navy, called for a reexamination of American drug policy, repeatedly arguing that "nothing should be off the table."

Politicians like Webb have historically steered clear of legalization talk, fearing that a charge of being "soft on drugs" would hurt them on election day. Yet recent polls indicate that more than half of Americans—up from 29 percent a decade ago—believe recreational use of marijuana should not be a crime, and upward of 70 percent—75 percent in Texas—believe adults should be able to use the drug for medicinal purposes. Thirteen states either allow possession of small amounts or treat it as a minor violation that does not result in jail time. This change in attitude and law is grounded in experience: More than 100 million people acknowledge having used marijuana, 25 million in the past year. While most recognize that this entails some risk, they're no longer spooked by the specter of "reefer madness."

And they know our national drug policy, which we have tried to impose on much of the world, is deeply flawed. Only 24 percent of Americans, according to a 2008 Zogby poll, believe that the policy is effective. In the nearly forty years since Richard Nixon declared a war on drugs, federal, state, and local governments have spent hundreds of billions of dollars on eradication, interdiction, and incarceration. They've seized tons of contraband, destroyed crops, and imprisoned more people than any other country, a disproportionate

number of them poor and black. Despite these efforts, drugs continue to be available to meet a remarkably stable demand.

With his giant can of worms already spilling over, Barack Obama is not going to let the prospect of legalization become an unwelcome controversy—much like what gays in the military was to Bill Clinton—but he has shown signs of favoring more-rational policies. Shortly after Attorney General Eric Holder was confirmed, he announced that agents of the Drug Enforcement Administration would stop raiding medical marijuana clinics. Soon afterward, the head of the White House Office of National Drug Control Policy (ONDCP), former Seattle police chief Gil Kerlikowske, said he was scrapping the war on drugs, both as a term and as a strategy, in favor of greater emphasis on prevention and treatment. In late July, U.S. envoy to Afghanistan Richard Holbrooke revealed that our country was phasing out the eradication of poppy crops there, an exercise that he said had wasted hundreds of millions of dollars, alienated farmers, and driven people into the embrace of the Taliban, all without making a dent in the amount of opium reaching the market.

Given this change in climate, from Main Street to Pennsylvania Avenue, it's not surprising that serious talk of legalization is in the air. Indeed, some form seems likely to occur in the near future, driven by both democracy and demography. A longtime pro-pot activist explained it to me this way: "Every day, some kid turns eighteen and can vote. Every day, some eighty-year-old dies. It's when, not if."

Why shouldn't it occur here, in Texas? President Nixon did the nation a disservice when he launched the war on drugs, but he also traveled to China, achieving one of the truly important and lasting positive accomplishments of his otherwise blighted terms in office. Without seeking parallels to his failures, I'd like to propose one to his success: As Nixon went to China, our unlikeliest of states should go to pot. We started it 95 years ago; let's end it today.



**TRACING THE PATH BY WHICH CANNABIS EVOLVED** from comforting friend to criminal menace is enough to diminish one's confidence in the rationality of legislation. In the thirties, the tough times of the Depression heightened the resentment toward Mexican workers, whose drug of choice helped make them an easy target. A Texas state senator who spoke in favor of an anti-pot bill said, "All Mexicans are crazy, and this stuff is what makes people crazy." In other parts of the country, fears arose that people deprived of drink in the era of Prohibition would turn to this new and cheap source of intoxication and that many of them would behave no more respectably than those crazy Mexicans. When marijuana did, in fact, become popular with a rising number of blacks, among them jazz musicians and their ilk, its power as a symbol of the Other gained even more potency.

Prohibitionists, politicians, cops, crusading journalists, and moralists dedicated to stamping out the noxious weed had a powerful ally in Washington. Harry J. Anslinger, the commissioner of the Federal Bureau of Narcotics (the predecessor of the DEA) from 1930 to 1962, genuinely hated drugs and believed the best way to combat them was to scare the public and punish offenders. Although he regarded marijuana as a less serious threat than opiates or cocaine, he threw himself into the effort to demonize it, calling it an "assassin of youth" and charging that it led to violent behavior, sex crimes, and—a favorite of his—insanity.

Most states enacted legislation against marijuana during this period, but the key anti-pot law was the Marihuana Tax Act of 1937, which required, among other things, careful record-keeping by doctors who prescribed cannabis to their patients. The hearings before the Ways and Means Committee of the U.S. House lasted barely more than two hours. Anslinger testified to the "deleterious, even vicious, qualities of the drug [that] render it highly dangerous to the mind and body." In some cases, one marijuana cigarette might trigger "a homicidal mania," he ventured. "Probably some people could smoke five before it would take that effect, but all the experts agree that the continued use leads to insanity." Dr. William Woodward,

**LEGALIZING MARIJUANA WOULD NOT ONLY DRY UP THE TEXAS MARKET FOR ILLEGAL POT, IT WOULD DISRUPT THE CHAIN OF DELIVERY FROM THE TEXAS-MEXICO BORDER NORTHWARD.**

representing the American Medical Association, opposed the bill on the grounds that it placed a burden on physicians by giving them another substance to track and report on, that the matter was better left to the individual states, and that its enforcement would be extraordinarily difficult.

Woodward's tilting at windbags had no effect, and the bill moved out of committee easily. When it came to the House floor, it received little serious attention. Sam Rayburn, the Texan who was House majority leader at the time, was prepared to put it to a vote when a member asked, "What is this bill about?" Rayburn answered, "It has something to do with a thing called marihuana. I think it is a narcotic of some kind." When the member asked if the AMA supported the bill, Representative Fred Vinson, of Kentucky, who would later become chief justice of the U.S. Supreme Court, rose to say, falsely, "Their Doctor Wharton [*sic*] came down here. They support this bill one hundred percent." That was enough. It passed without a recorded vote, the Senate approved it with no debate, and Franklin Delano Roosevelt signed into law a measure that would criminalize the behavior of millions of Americans.

As soon as fear of Communism began to run high, Anslinger modified his pitch against marijuana: The Reds would push the drug on American boys, to sap their fighting spirit and turn them into zombie pacifists. He coupled that line of argument with an even more durable rationale: The smoking of marijuana was "the certain first step on the road to heroin addiction." (The gateway theory remains the chestnut trotted out when other attacks fall short.) Cheered on by Anslinger and a punitive public, Congress and individual states sharply increased penalties for all forms of illegal drug use. In some states, the simple possession of pot could land you in prison for 99 years; in Georgia, selling to a minor could bring the death penalty.

Despite this ratcheting up of ostensible deterrents, drug use continued to grow, then exploded in the sixties, joining sex and rock and roll as the main contributors to a sweeping cultural revolution. Drugs got blamed for the upheaval, and anti-drug laws were used to harass and prosecute people whose deeper offense, other than the way they dressed and wore their hair, was rebellion against racism, social injustice, and the Vietnam War. In a notorious 1968 case, Lee Otis Johnson, a former Texas Southern University student known for his outspoken political activism, was sentenced to thirty years in prison for passing a single | **CONTINUED ON PAGE 226**

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## Texas High Ways

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joint to an undercover agent. But as millions of white, affluent, mainstream young people began to use marijuana and other drugs—most of them without killing anyone, going crazy, or becoming jazz musicians—pressure mounted to rethink some of these policies, particularly those related to marijuana.

The Comprehensive Drug Abuse Prevention and Control Act of 1970 repealed most mandatory penalties for drug offenses and explicitly differentiated marijuana from harder drugs. It also called for President Nixon to appoint a special commission to take a thorough look at marijuana. Chaired by former Pennsylvania governor Raymond Shafer, the commission produced a report, titled “Marijuana: A Signal of Misunderstanding,” that stated that moderate use of cannabis was not toxic, did not cause physical dependency or psychosis, and did not lead to the use of harder drugs and recommended that small amounts be exempted from criminal penalties.

An irritated Nixon rejected those conclusions, but the report was a harbinger of a coming change in mind-set. In the Texas Legislature, an Interim Drug Study Committee, led by Senator Don Kennard, of Fort Worth, and including such Senate stalwarts as Oscar Mauzy, of Dallas, and Barbara Jordan, of Houston, declared that “the public interest would best be served by making marijuana available through legal channels with carefully controlled quality and heavy taxation” and treating it as “simply another recreational drug like alcohol.” President Jimmy Carter, with the backing of the heads of several relevant agencies, openly suggested decriminalization of up to one ounce of the drug. That effort, however, met strong opposition from a growing anti-drug movement of parents and sank back into the realm of the unthinkable, at least at the federal level.

During the eighties, even as millions of people refused to follow first lady Nancy Reagan’s admonition to “just say no” to drugs, Congress passed a series of tough anti-drug measures, including the Anti-Drug Abuse Act of 1988, which established the White House Office of National Drug Control Policy, whose director would come to be known as the drug czar and would serve as the most visible representative of the government’s war on drugs. To any who doubted its aim and resolve, Congress proclaimed that “it is the declared policy of the United States Government to create a Drug-Free America by 1995.” Although 1995 came and went without the projected victory, politicians learned that they could defeat opponents who viewed drug use as a

complicated issue, to be addressed in a variety of pragmatic and sensible ways, with a belligerent pledge to throw users in the can and sit on the lid. That tactic persists.

Today state laws vary widely. In Alaska, possession of up to four ounces of the drug in one’s residence is legal, as is possession of fewer than 25 plants. California treats possession of an ounce or less as a misdemeanor, punishable by a fine of \$100. In Montana, possession of more than sixty grams, a little more than two ounces, is a felony offense, punishable by up to twenty years in prison and a fine of up to \$50,000. In Texas, possession of less than two ounces is a class B misdemeanor, which can mean as many as 180 days in jail and a \$2,000 fine but usually draws probation. Since 2007, police officers here can issue citations to adults instead of arresting, booking, and incarcerating them. This eases the burden on law enforcement, avoids trauma for the apprehended, and helps reduce overcrowding of jails. It does not, however, affect the status or the potentially serious nature and lasting implications of the offense.

“People think it’s like a traffic ticket, where you take a defensive driving course and it’s dismissed and doesn’t go on your record,” says Austin lawyer Jamie Spencer, who has spent twelve years defending clients busted for drug possession. “That’s not the case. It is not ‘just a ticket,’ because it doesn’t go away.” Best case, if you plead guilty or no contest, is that you might be able to get deferred adjudication probation. By completing requirements set by a judge—which may include taking drug education classes, showing up at the courthouse to pee in a cup, and doing a substantial amount of community service—you can truthfully deny having been convicted of the crime, but the record is not completely expunged. This can be a problem if you’re seeking a license to practice law or medicine, applying for a job in law enforcement or at a government agency, requesting a federally funded loan, or bucking for a promotion. It can also result in the loss of custody of one’s child, removal from subsidized housing, or loss of adoption rights.

The overwhelming majority of people who smoke pot stand little chance of arrest and prosecution these days, but the possibility exists as long as the law is on the books. In 2007, the latest year for which figures are available, police officers across the U.S. arrested 872,721 people for marijuana violations—the largest number ever recorded by the FBI. Almost 90 percent of these arrests were for possession only. The rest were for sales and manufacture but included those growing the drug for personal or |CONTINUED ON PAGE 342



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medical use. Some arrestees, including some charged with possession only, are doubtless real criminals. But it is implausible that a high percentage of cannabis consumers, captured at a rate of one every 37 seconds, pose a sufficiently dire threat to the social order to justify an annual expenditure of approximately \$7 billion to catch and punish people for behavior demonstrably less dangerous than drinking alcohol.

**Critics of cannabis** cite proven negative effects of heavy use: loss of concentration and short-term memory, poor educational performance, decreased drive and ambition (“amotivational syndrome”), impaired motor skills, damage to the lungs and circulatory system, increased anxiety and paranoia, and, in extreme cases, psychosis. Defenders acknowledge these problems but note that the overwhelming majority of users are not heavy users. Most people who smoke marijuana do so as most drinkers drink alcohol—on an infrequent or quite moderate basis.

Although Harry Anslinger’s alarmist claim that marijuana turned its prey into homicidal maniacs and raving lunatics failed to gain lasting traction even in his own time, his as-

sertion in the fifties that using it leads to the use of harder drugs seems plausible. People who smoke pot are in fact more likely to try heroin, cocaine, methamphetamines, and other drugs than those who don’t (though only a small percentage of people who use marijuana ever experiment with harder drugs). Prohibition clearly plays a role in whatever validity this gateway theory has. The ban on sales of marijuana drives users to dealers who may offer them other and more-expensive drugs. As the prestigious British medical journal *Lancet* has editorialized, “Sooner or later politicians will have to stop running scared and address the evidence: cannabis per se is not a hazard to society, but driving it further underground may well be.”

The Dutch policy of selling small quantities of marijuana and hashish openly in hundreds of “coffee shops” is explicitly aimed at severing the tie between cannabis and more-dangerous drugs. It hasn’t worked flawlessly or lacked for critics, but it has been more successful than the American system of prohibition. A 2007 World Health Organization study of lifetime drug use in seventeen countries found that 42.4 percent of U.S. respondents acknowledged having used cannabis, compared with 19.8 percent in the Netherlands. Younger people in both countries were more

likely to have used cannabis, but the U.S. had higher rates in different age cohorts. For example, only 7 percent of people under 15 in the Netherlands had used cannabis, compared with 20 percent in the U.S. By age 21, it was 35 percent versus 54 percent. Even more striking, lifetime cocaine use in the Netherlands was only one percent, compared with 16.3 percent in the U.S.—by far the highest rate of the countries studied.

Opponents of legalization attempt to counter decades of exoneration of cannabis by claiming that today’s pot is far more powerful than that smoked in earlier times—twice as strong, three times, ten times, thirty times! Fox News has even called it “killer marijuana.” These assertions are not entirely false, but they’re highly misleading. The cannabis plant contains a number of chemicals, but it is delta9-tetrahydrocannabinol that is primarily responsible for the high associated with the drug. It is true that growers, using agricultural techniques, have increased the level of THC to perhaps two to three times the strength of the average product available twenty or thirty years ago, but that doesn’t mean that smoking cannabis today necessarily produces higher levels of intoxication. Smokers quickly learn to titrate their dosage to receive the effect they want. Anyway, legal cannabis, like legal alcohol, would carry labels indicating its approximate strength, and regulation could set a maximum upper limit for THC content.

The most persuasive argument against prohibition is that we tried it with alcohol and it didn’t work. People didn’t like it, the government lost millions in taxes, and organized crime became an established segment of American society. Many people abstain from alcohol for a variety of reasons. They believe it to be sinful, immoral, or unhealthy. They’ve seen it destroy lives or cause trouble in their own families and want nothing to do with it. They’ve had a bad experience with it themselves, and they believe the only way for them to avoid trouble is to stay away from it completely. Or they’ve tried it and just didn’t care for the taste or the effect. Still, hardly any of these abstainers call for a return to prohibition or believe that people who drink responsibly should be jailed, fined, stigmatized, or stripped of freedoms. Well, many people abstain from marijuana for similar reasons, yet within this group, a (shrinking) majority still believe marijuana should be illegal, even for adults. This is, to be gentle, an inconsistent stance.

Alcohol is a major killer. According to the Centers for Disease Control and Prevention, excessive use of alcohol takes the lives

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of 79,000 people in this country every year. A stoned driver can also cause a fatal accident and should be treated no more leniently than if he were drunk. But the relative risk with pot is lower than with alcohol. A 2008 British study, known as the Beckley Global Cannabis Commission, found that drivers under the influence of marijuana were 1.3 to 3 times as likely to have an accident than sober drivers, but drunk drivers were 6 to 15 times as likely.

Alcohol is also closely linked to violent behavior, figuring in a high percentage of homicides, assaults, fights, rapes, spousal abuse, and mistreatment of children. It reduces inhibitions, increases aggression, and can give people an inaccurate sense of their abilities, as when a small drunk decides to take on a big bouncer. The line from alcohol to assault is not a straight one but one bent by such factors as age, education, social class, culture, setting, and individual personality. Still, the association is strong, and we have all seen its effects. Marijuana, in marked contrast, produces relaxation and passivity. Occasionally users become anxious or panicky, but even then they almost never initiate a “pot-room brawl.”

In light of this, it’s peculiar that we do not blink when beer companies sponsor ball games on the Fourth of July or when Crown Royal offers itself as a perfect way to mark the birth of Jesus. Nor were we surprised when Sarah Palin declared that she and John McCain wanted to put government back on the side of “normal Joe Six-pack” Americans like herself, even though most in the audiences she so excited—as well as many in Obama Nation—believe Bud Blunt should continue to be treated as an outlaw.

Of course, alcohol is not the only dangerous drug legally available. Tobacco is far more deadly, wiping out 440,000 Americans every year, equivalent to two fully loaded jumbo jets crashing every day. We are steadily restricting the freedom of smokers, but no one is talking about jailing them. Aspirin and anti-inflammatory drugs such as ibuprofen take 7,600 American lives annually, and 22,400 die from an accidental overdose of legal drugs. And the number of deaths caused by cannabis? Zero. Not zero in 2008 or some other cherry-picked year, but zero in the entire five-thousand-year history of its known use. From time to time, we hear the tragic story of a young person, perhaps a fraternity pledge or a kid turning 21, who dies after drinking twenty shots of alcohol. Those who have attempted to calculate the potentially lethal dose of marijuana estimate that, if there is a lethal dose, it would probably involve smoking 20,000 joints in a

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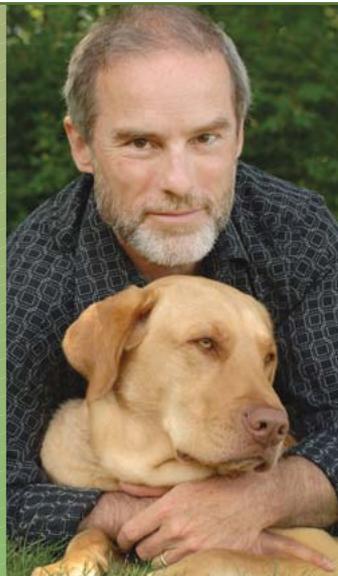
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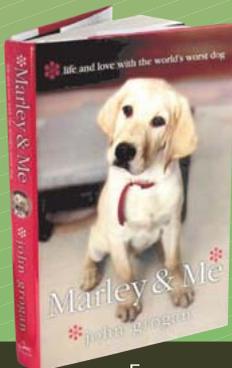


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single day—a tip-off that the stoner in question had already surrendered most dreams of a productive future.

**From a political** standpoint, an easy first step in the effort to reform marijuana laws would be to remove or reduce penalties associated with small amounts of the drug, an approach commonly referred to as “decriminalization” or “depenalization.” This is already in effect or under serious consideration in much of Western Europe, Australia, Canada, and Mexico and is the de facto policy in a number of states and cities in this country, even when penalties remain on the books. For example, in 2003 Seattle voters passed Initiative 75, directing the police and the city attorney to make enforcement of marijuana offenses “the city’s lowest law enforcement priority.” An assessment after four years found no increase in marijuana use among youth and young adults, no increase in crime, and no adverse impact on public health. In Texas, we might well ape this approach by lowering possession of small amounts of cannabis from class B to class C misdemeanor status—essentially the level of a traffic violation. This would avoid much of the inconvenience and expense for both offender and state and eliminate the stigma of a criminal conviction, but it would still leave the profit in the pockets of outlaws.

A better way to deal with marijuana—not a perfect way but what the *Economist* calls “the least bad” way—would be to legalize it outright, to remove any taint of lawbreaking and reduce the chances of capricious or discriminatory enforcement. What would that mean? It would surely include the right to grow one’s own, though most people, especially urban dwellers, would prefer to let someone else handle that side of things. Any system of legalization would involve quality control, regulation of sales, and taxation.

A number of possibilities exist. Cannabis could be sold at drugstores and grocery stores, as it was in the early 1900’s, but that seems unlikely. Allowing liquor stores to sell the drug makes sense, but the prospect of people coming in to double up on intoxicants, one of them damned as demonic for 95 years, would surely meet public resistance. A bill that attracted 44 percent support from voters in Nevada in 2006 recommended that, with some exceptions, retail sales of marijuana be in the hands of tobacco stores. The bill forbade all advertising and mandated that a substantial portion of tax money, including a stiff excise tax, be used to support programs for prevention and treatment of abuse of alcohol and other drugs. That sounds cautious

enough, but it would be hard to maintain the ban on ads, and a state government in need of more tax revenue might encourage wider commercialization, just as Texas and other states push their lotteries, which amount to a tax on people with little understanding of statistical probability.

Mark Kleiman, a professor at the UCLA School of Public Affairs, has proposed a legalization scheme that would permit responsible adult users to obtain more than enough to satisfy their needs, but with built-in safeguards against glamorization or abuse of cannabis. Under Kleiman’s Optimal Marijuana Control Regime plan, legal cannabis sales would be restricted to “state stores” similar to those that arose after alcohol prohibition and still exist in some places today. Adults could easily obtain an individual license bearing the same number as their driver’s license or other state-issued ID. They could purchase a generous amount of marijuana at reasonable intervals, but a record of their purchases would be kept by a central registry, just as purchases of narcotics such as Vicodin or Percocet are currently monitored, to curtail abuse. Users convicted of marijuana-related offenses, such as driving under its influence or selling to minors, would face loss of their cannabis license. Kleiman acknowledges that he has

found few enthusiasts for his proposal, but “compared to prohibition,” he notes, “it represents a considerable liberalization, while creating much less serious threats than virtually unrestricted commerce.”

Whatever the specific system, legalization of marijuana would bring substantial economic benefits. Harvard University economist Jeffrey Miron has calculated that it could save the nation at least \$13 billion annually in law enforcement costs and generate more than \$6.7 billion in revenue, assuming cannabis were taxed like cigarettes and alcohol. According to his estimates, Texas would save nearly \$274 million and take in \$46.6 million in new taxes each year.

California, which legalized medical marijuana in 1996, has already realized some of this potential. No one doubts that the cannabis trade in the Golden State extends far beyond the afflicted. An estimated six hundred legal marijuana dispensaries have sprouted in the Los Angeles area alone. Some jurisdictions have moved to limit their number or zone them into particular areas, after the manner of liquor stores and strip clubs, but many have become established parts of the economy and culture. In downtown Oakland, Houston native Richard Lee operates a cannabis conglomerate that he claims generates



# Previews

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\$300,000 in annual state sales tax and “about double that” in taxes to the federal government. Estimates of possible income from full legalization vary widely, but everyone agrees it would be substantial.

Obviously, any effort to legalize marijuana will meet stiff opposition. In addition to parents understandably fearful for their children and the hordes who’ve seen the devastation wrought by alcohol and abhor the idea of making another intoxicant legally available, powerful forces have a vested interest in maintaining prohibition. Pharmaceutical companies will not welcome a homegrown alternative to their painkillers, muscle relaxants, and antidepressants.

Some of the greatest resistance is likely to come from law enforcement. The DEA and the ONDCP exist to oppose drugs. The FBI, the Border Patrol, state troopers, and local police all have control of contraband as part of their mandate and, as such, have budgets and bureaucracies they do not want challenged and jobs they do not want to lose. In fairness, their objections go beyond self-interest. They have seen the harm drugs can do, and they know that drug traffickers are evildoers. They may believe that legalizing marijuana would set loose a chain of developments that would be far worse than the problems we already face, although the experience of countries and states that have legalized cannabis suggests otherwise.

Whatever their reasons, most law enforcement personnel regard talk of a truce in the war on drugs as a personal and professional affront. After his controversial attempt earlier this year to get El Paso on record as questioning the status quo, Beto O’Rourke came under attack. “The entrenched interests are toeing the party line,” he said. “The most virulent opposition came from retired law enforcement personnel: I can’t believe you have let down our officers and people who have given their careers and are laying their lives on the line to keep you safe.’ It’s a way to take you off the real argument, which is whether what we are doing is working. I wasn’t surprised at that. I was surprised by an organization I didn’t know about until we offered that resolution, Law Enforcement Against Prohibition. These are retired law enforcement people—from the Border Patrol, police, sheriffs—who have waged the war in real life and believe it absolutely cannot be won. These are guys who have put their lives on the line and have come back from that experience and said, ‘This doesn’t work,’ and they are so eloquent and articulate on this subject.” Not all who hold such views are retired. A federal agent I’ve known for many years, speaking

on condition of anonymity, told me matter-of-factly, “Jack Daniel’s is no different from marijuana, as far as I can tell. We were told that marijuana is addictive. It is not. Legalization has to be discussed.”

True legalization of cannabis is, for the moment, largely a thought experiment. Not only is the U.S. a signatory to the 1961 United Nations Single Convention on Narcotic Drugs, which demands the prohibition of marijuana, but it has exercised pressure on countries that have considered legalization. There is a legal mechanism for opting out of the Single Convention, and many countries would welcome such a move by the U.S. But it’s unlikely.

It is not impossible to imagine, however, that a state could institute a legalization scheme that would be allowed to stand and could serve as a model that other states would emulate, just as twelve states have followed California’s lead in legalizing medical marijuana (and several others are poised to do so). A state that decided to allow the production and sale of marijuana and was able to show that this policy increased government revenue, cut into the profits of criminals, and reduced hardship on its citizens, all without a troublesome increase in usage or social harms, could probably get away with it.

California is openly toying with such a strategy. Texas is not, but it could and should. The largest and most powerful Mexican traffickers—the Gulf, Sinaloa, and Juárez cartels—view Texas as both a major market and a vital conduit for shipping drugs into the U.S., forming alliances with local gangs that handle sales in their territory and move the product outward to other regions. Legalizing marijuana would not only dry up the Texas market for illegal pot, it would disrupt the chain of delivery from the Texas-Mexico border northward. It would also greatly reduce contact with customers who might be enticed into buying cocaine, heroin, and methamphetamines.

If a smaller or less influential state were to go the legalization route, it might be ignored as insignificant or quashed as a warning to others. (Who knew that Alaska already allows its citizens to possess enough cannabis for a hundred joints?) If California does it, other states will smirk for a while, writing it off as more Left Coast looniness, then gradually fall in line with similar measures of their own. In the meantime, billions more dollars will be wasted and millions more lives harmed. But if Texas, famous for its independent spirit and conservative mien, were to legalize marijuana, the world would take note, and great and beneficial change would sweep across the country. ♣